

IN THE UNITED STATES DISTRICT COURT
FOR
THE MIDDLE DISTRICT OF ALABAMA

THE UNITED STATES
OF AMERICA

VS.

CRIMINAL ACTION NO.
2:06-CR-155-MHT

QINTRELL MARTIN

RULE 35

* * * * *

21 HEARD BEFORE: The Hon. Myron H. Thompson
22 HEARD AT: Montgomery, Alabama
23 HEARD ON: February 1, 2008
24 APPEARANCES: Verne H. Speirs, Esq.
25 Richard K. Keith, Esq.

X

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Official U. S. Court Reporter
Middle District of Alabama
(334) 265-2500

1 WHEREUPON, THE FOLLOWING PROCEEDINGS WERE HEARD BEFORE THE HON.
2 MYRON H. THOMPSON ON FEBRUARY 1, 2008 AT THE UNITED STATES
2 COURTHOUSE IN MONTGOMERY, ALABAMA:

3

4 THE COURT: The Court cause the case of *United States*
5 vs. *Quintrell Martin*, criminal action number two oh six C R one
6 fifty-five M. H. T. We're here on a motion to reduce sentence.

7 Representing the Government is Mr. Speirs, is that
8 correct?

9 MR. SPEIRS: Good morning, Your Honor. Verne Speirs
10 for the United States.

11 THE COURT: And Mr. Keith.

12 MR. KEITH: Good morning, Your Honor. Richard Keith
13 for Quintrell Martin.

14 THE COURT: Now the Government's motion asks for an
15 eighteen month reduction. What's the defendant's position on
16 that?

17 MR. KEITH: Your Honor, while the defendant
18 appreciates the Government's offer, Mr. Martin feels that based
19 on things that he has done during this case, that he should be
20 entitled to more than eighteen months. And when you like to
21 hear why, Judge, I'll get into it.

22 THE COURT: Yes, go ahead.

23 MR. KEITH: Judge, a little case history is
24 appropriate in this case. I'll be very brief with it.

25 Back on July twenty-eighth of the year two thousand

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1 and four Mr. Martin was charged here in Montgomery County
2 Circuit Court with a capital murder offense. On June
3 twenty-eighth of the year two thousand and six while he had
4 been incarcerated that entire time under a no-bond situation,
5 Mr. Martin testified in front of a Montgomery County grand jury
6 and that case was no billed.

7 Judge, the case was no billed, and it's a bone of
8 contention with Mr. Martin and the prosecutor, basically. The
9 case was no billed because the facts were, I think the Court
10 has received some of the testimony of earlier hearings.

11 Mr. Martin shot and killed this drug dealer by the
12 name of Johnny Jackson in self-defense. We call it
13 "self-defense" because that's what it was, and that's what the
14 grand jury found. I understand Mr. Speirs, he would like to
15 call it "capital murder". Without getting into another
16 argument as to whether it was or wasn't, the case was
17 no-billed. The case was self-defense.

18 Both Mr. Jackson and Mr. Martin at the time were
19 engaged in trafficking drugs. Both of them were convicted
20 felons. Both of them were armed with handguns at the time of
21 the offense. Forensics proved true that Mr. Jackson shot Mr.
22 martin twice, and Mr. Martin fired back in self-defense,
23 causing Mr. Jackson's death.

24 Judge, the case was no billed on June twenty-eighth
25 of oh six. Because Mr. Martin had been on probation, he was

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1 revoked for having a gun during the time he was on probation
2 and for having a felony on his record. He was given a five
3 year sentence. That's why he has been in the State Department
4 of Corrections here since the case was no billed and since
5 basically the time he remains in the state.

6 THE COURT: Now he's with the State for what, now?

7 MR. KEITH: Judge, he had been revoked by the State
8 for having a gun while on probation; and, of course, ultimately
9 for having a felony and having a gun. The same charges that he
10 was charged with here in federal court after his state court
11 case was no-billed he was brought in federal court and charged
12 with a nine twenty-two G one offense for a felon in possession
13 of a firearm. So he was given five years by Judge McCooey
14 (ph.) for having a gun, and then came to federal court and was
15 given a hundred and twenty months sentence for having a gun and
16 a felony record.

17 During his course of this charge, Mr. Martin
18 cooperated with the Government. He cooperated with the State
19 court prosecutors, Your Honor. They came to Mr. Martin. He
20 had information the State wanted. Mr. Speirs and myself came
21 up with a plea agreement basically where he will get
22 substantial assistance in the form of a downward departure,
23 that he would not be charged with any other -- certainly he
24 would not be charged with any capital murder offense or any
25 other offenses, and basically the plea agreement does state the

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1 prosecutor at his discretion will determine what to recommend
2 to the Court for an ultimate Rule thirty-five downward
3 departure.

4 Your Honor, if I may, the basis of Mr. Martin's
5 grounds for more asking the Court to convince Mr. Speirs that
6 he get more than an eighteen month reduction are based on two
7 letters from the state court prosecutors as Mr. Martin
8 testified. One of them, Scott Green's, was included in the
9 Government's motion for reduction of sentence, and another one
10 from another prosecutor, Calvin Williams, Assistant District
11 Attorney here in Montgomery, about some other additional
12 substantial assistance that was not addressed by Mr. Scott
13 Green.

14 Judge, I've got Scott Green's letter, the District
15 Attorney's letter. I could either read it into the record or
16 for the Court to be aware of what it says.

17 THE COURT: Let me see it.

18 MR. KEITH: Yes, sir.

19 (Whereupon, the Court examined said document.)

20 THE COURT: Okay. This was the same letter that was
21 attached to exhibit A.

22 MR. KEITH: That's correct, Your Honor. Mr. Martin
23 testified in two trials, and testified basically in a third
24 trial. And, Judge, there were two other codefendants that did
25 plead guilty where Mr. Martin did not have to go to trial but

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1 pled because he was available to testify.

2 The second is from Assistant U. S. District Attorney
3 Calvin Williams that the Court has not seen.

4 (Whereupon, the Court examined said document.)

5 THE COURT: Okay. Make that defendant's exhibit one.

6 That's the letter from Mr. Fields, is that right?

7 MR. KEITH: Assistant District Attorney Calvin
8 Williams.

9 THE COURT: Williams. Okay.

10 MR. KEITH: Yes, sir.

11 Judge, what you've got before you are basically six
12 trials that Mr. Martin had agreed to testify in or be on
13 standby should there not be a plea. Mr. Martin had knowledge
14 of those cases not because he was involved in those offenses, a
15 lot of this is what people had told him and things he had heard
16 in jail, not because he had involvement in these murders.

17 Your Honor, the Government wanted to base their
18 eighteen month downward departure that they say represents a
19 reduction of six months for each trial Martin participated in
20 on behalf of the State of Alabama. He testified in three
21 trials --

22 THE COURT: Three trials? How many now, six months
23 for each trial?

24 MR. KEITH: Yes.

25 THE COURT: They're counting three trials.

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1 MR. KEITH: Three guilty pleas as a result of Mr.
2 Martin's agreement to testify.

3 THE COURT: The trials were two for Cowell (ph.) and
4 one for Gray?

5 MR. KEITH: Yes, Your Honor.

6 THE COURT: That's three trials?

7 MR. KEITH: Yes, Your Honor.

8 THE COURT: And you said six months per trial?

9 MR. KEITH: That's Mr. Speirs' motion -- the basis
10 for the calculation.

11 THE COURT: Okay.

12 MR. KEITH: Judge, there's three other cases that
13 pled guilty, that otherwise he wouldn't have testified in is
14 the base for us saying we should not get eighteen months, but
15 we should get another eighteen months, six months for pleading
16 guilty to make it for a total of thirty-six months, is what Mr.
17 Martin thinks he's deserving of.

18 Judge, there have been threats on Mr. Martin's
19 family. I have witnesses here that there were the threats made
20 on Mr. Martin's family because of his testimony against these
21 people. He had also provided the Government with some
22 unrealized consideration that he was never provided, some third
23 party cooperation in the form of Government assistance, Your
24 Honor. During the time he has been in State custody he's had
25 no disciplinaries, and basically been in segregation,

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1 protective custody because of the threats on his life. He's
2 made a substantial commitment the State and Federal Government
3 to provide assistance.

4 Based on other cases, Judge, I would just suggest
5 that he's due a little more than eighteen months. He's been
6 sentenced to a hundred and twenty months by this Court.

7 THE COURT: Can I see the *Presentence Report*? I
8 don't see it in C. M. E. C. F. Do you have a copy?

9 THE PROBATION OFFICER: Yes, sir.

10 THE COURT: He received an original sentence of a
11 hundred and twenty months?

12 MR. KEITH: Yes, Your Honor.

13 THE COURT: Was that a mandatory minimum?

14 THE PROBATION OFFICER: No, Your Honor, it's felon in
15 possession of a firearm at the high end of the guideline.
16 Actually, if I may, it was the guideline range because of the
17 statutory maximum was ten years, and his offense level was
18 greater than the statutory maximum.

19 THE COURT: So I gave him the maximum guideline
20 range, from what I see here. The guideline range was two ten
21 to two sixty-two, and recommended was a sentence of two hundred
22 and fifty months. The maximum was ten years?

23 THE PROBATION OFFICER: May I approach?

24 THE COURT: Yes. I see.

25 THE PROBATION OFFICER: You found that there were

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1 certain --

2 MR. SPEIRS: Your Honor, if the Court recalls, almost
3 all parties believed that Mr. Martin was an armed career
4 criminal where he would have been subject to a mandatory
5 sentence of fifteen years to life. But for want of a single
6 document, and it's because the juvenile records had been
7 destroyed, the Government did produce a police report but under
8 Eleventh Circuit case law that police report was not competent
9 evidence. Had the State of Alabama kept juvenile records, the
10 Government's confident they would have been able to show that
11 Mr. Martin was an armed career criminal. We didn't have the
12 document under the Eleventh Circuit case law, therefore being
13 sentenced to a hundred and twenty months and was not deemed to
14 be an armed career criminal.

15 THE COURT: There was no mandatory minimum?

16 MR. SPEIRS: That's correct, sir.

17 THE COURT: So I gave him the maximum.

18 MR. SPEIRS: That's correct, sir.

19 THE COURT: Go ahead.

20 MR. KEITH: Judge, I'd like you to hear from Mr.
21 Martin briefly. At this point I'll call him as a witness.

22 THE COURT: You may call him. Let's swear him in.

23 Q U I N T R E L L M A R T I N,

24 the witness herein, having first been duly sworn or
25 affirmed to tell the truth, was examined and testified as

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1 follows:

2 DIRECT EXAMINATION

3 BY MR. KEITH OF QUINTRELL MARTIN:

4 Q. State your name for the record.

5 A. Quintrell Martin.

6 Q. Mr. Martin, you were approached at some point in time by a
7 District Attorney here in Montgomery County by the name of
8 Scott Green?

9 A. Yes, sir.

10 Q. And you've heard the representations to the Court in a
11 letter he authored about your cooperation with the State in the
12 case of Michael Gray and Anthony Tower?

13 A. Yes, sir.

14 Q. Is there any information that you would like to make the
15 Court aware of that Judge Thompson has not heard about the way
16 you were approached, what you were asked to do, or if there
17 were any representations about what you would receive in
18 exchange for your agreement to testify?

19 A. Yes, sir.

20 Q. Tell the judge.

21 A. When I talked with him, my case agent, Jennifer Rule (ph.)
22 was present one time. And she told me if I helped them,
23 because of the seriousness of the case, that I will receive
24 sixty months off my sentence. And I was lacking at twenty
25 years then. Then when I didn't get the twenty years, they

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1 didn't want to do nothing for me.

2 But from the beginning she told me that I would
3 receive sixty months. She told all my family members the same
4 thing. They met with her on several occasions, and she told
5 them the same thing. So that's what I thought I was going to
6 get it unless I help. Then Scott told me he had been talking
7 with her. He didn't think they were going to give me what I
8 wanted. So I didn't want to back out of it, but he really
9 needed me to help him out. But I thought they would still give
10 me more than the eighteen months.

11 I thought it would be more, but it wasn't going to be
12 five years. But he told me it would be like three or four,
13 something like that. I had no idea it was eighteen months.
14 Everywhere I got --

15 Q. Let me stop you for a minute.

16 When were these representations made? You're talking
17 about Jennifer Ruden.

18 A. Yes.

19 Q. When did she have these conversations with you and your
20 family?

21 A. When I first got arrested on federal charges I had agreed
22 to give a proffer, talked with her. Then she came to talk with
23 me at the city jail on several other occasion.

24 Q. This was all prior to you testifying in the Circuit Court
25 of Montgomery County?

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1 A. Yes, sir.

2 Q. And it's prior to being sentenced by Judge Thompson?

3 A. Yes, sir.

4 Q. Anything else about this witness?

5 A. Yes. And she just told me if I cooperated with her, how
6 she would help me. Then the last thing I heard was when I
7 talked with you and the probation officer, and Mr. Speirs told
8 me, he told me to continue to cooperate with them and they
9 would help me. I had no idea. I -- Had I known that, I
10 wouldn't have put myself out for that.

11 My family has been threatened, I've had several
12 fights in State prison. I just wouldn't have done it.

13 Q. After your testimony on the *Gray and Cowell (ph.)* case you
14 were approached by another District Attorney by the name of
15 Calvin Williams?

16 A. Yes, sir.

17 Q. Where you agreed to testify against the Government called
18 *Oppenfields (ph.)*.

19 A. Yes, sir.

20 Q. What, if anything, did Mr. Calvin Williams say to you about
21 any inducements or representations about what he might try to
22 help you?

23 A. I was brought up from State prison on two occasions where I
24 had to go to the county jail and put in protective custody.
25 And he talked with Verne, and they said if I assisted them in

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1 the case I would have something for it. When I got the letter
2 for my reduction, there was nothing in there about that.

3 From the beginning he told me that he talked with
4 Verne, that they were going to do something for me so I did it
5 anyway. And when I received the paper about the reduction what
6 they were recommending, that didn't even have that in here.

7 Q. So you feel basically you got no credit for Calvin
8 Williams?

9 A. I didn't get no credit.

10 Q. You explained to Judge Thompson all about the threats that
11 your family has received?

12 A. Yes, sir.

13 Q. And yourself? The threats where you have been
14 incarcerated?

15 A. Yes. I received threats and telling them physical they did
16 what I was going to do -- I was still thinking about myself and
17 trying to help myself out, so I went along and did it anyway.
18 So then when I testified in the trial, they put it in the
19 newspaper and everybody knew about it.

20 I had no idea they were going to put it in the
21 newspaper like I was the star witness in the case. If it
22 wasn't for me it wouldn't have been done; that basically put
23 the whole case and everybody knew it. And they have been
24 hounding me ever since.

25 Q. Have you been locked up since July of oh four?

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1 A. Yes, sir.

2 Q. You're still in the custody of the State Department of
3 Corrections?

4 A. Yes, sir.

5 Q. And you have yet to start serving on your hundred and
6 twenty month sentence in the Federal system?

7 A. Yes, sir.

8 Q. Is there anything else you would like to tell Judge
9 Thompson why you should get more of a downward departure?

10 A. I met with Ms. Jennifer Rudden again, and she talked with
11 some of my family members and they took fingerprints and
12 everything. And they made controlled drug buys for them and I
13 didn't get nothing for that. So I feel that I was used for
14 stuff, that they arrested people and nothing was done about
15 it.

16 Q. You now understand or have since been told apparently the
17 Government can't put you in what they call third party
18 cooperation for doing what you're talking about for the other
19 family members?

20 A. Right. I feel like if they couldn't do it, they should
21 have told me. Mr. Verne told me in the presence of you to
22 cooperate with her, and I did just that. And I didn't get
23 nothing for that neither.

24 Q. And you expected to get something for it?

25 A. Yes, sir.

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1 Q. Anything else, Mr. Martin?

2 A. No, sir.

3 Q. No further questions.

CROSS EXAMINATION

BY MR. SPEIRS OF QUINTRELL MARTIN:

6 Q. Mr. Martin, you understand and your counsel today has
7 admitted before this Court that you had a hand in the, or had
8 involvement in the death of Mr. Johnny Jackson, isn't that
9 right?

10 A. Yes, sir.

11 Q. And, sir, you went to Mr. Johnny Jackson's house because
12 there was a kilo of cocaine that was in the back, is that
13 right?

14 A. Yes, sir.

15 Q. And as a result of you going to his house, Mr. Johnny
16 Jackson was killed, right?

17 A. Yes, sir.

18 Q. And that was no-billed in the state for capital murder,
19 correct?

20 A. Yes, sir.

21 Q. And, sir, you read the plea agreement that was executed by
22 you and the Federal Government, correct?

23 A. Yes, sir.

24 Q. And in that plea agreement you have no liability, Federal
25 liability for the death of Johnny Jackson and that bad kilo of

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1 cocaine, isn't that correct?

2 A. I did. They held me responsible. I got twenty years for
3 the gun.

4 Q. Sir, in that agreement the Government agreed not to
5 prosecute you for a drug deal gone bad, correct?

6 A. That was in the agreement.

7 Q. That's in the agreement, isn't it?

8 A. That's in the agreement.

9 Q. All right. So you have no liability for that whatsoever?

10 A. No, sir.

11 Q. All right. And in addition, there was discussions that you
12 had with me and your counsel wherein there was a belief that
13 you may have been an armed career criminal, is that correct?

14 A. Yes, sir.

15 Q. And that turned out not to be true, right?

16 A. Yes, sir.

17 Q. So your original plea agreement was for around twenty
18 years, isn't that correct?

19 A. Yes, sir.

20 Q. And now you're serving a hundred and twenty months; ten
21 years, correct?

22 A. Yes, sir.

23 Q. And you're not going to serve any time for the death of
24 Johnny Jackson, you are not found to be an armed career
25 criminal, and the Government has still agreed to give you time

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1 off for the stuff that you did do for the State of Alabama,
2 isn't that right?

3 A. Not for everything.

4 Q. Sir?

5 A. They didn't give me credit for anything. I just want
6 credit for what I done, everything I done.

7 Q. Sir, it is credit to you, and we had this conversation in
8 the jail with you and your counsel of record present, that the
9 credit you were still earning was that you would have no
10 liability for the death of Johnny Jackson. We had that
11 conversation, sir. Do you recall it?

12 A. No, sir.

13 Q. Your counsel was there.

14 A. I was never told by me not receiving anything that I didn't
15 do with my downward departure. My plea agreement was twenty
16 years if I was an armed career criminal. You told me if I
17 wasn't an armed career criminal, then I wouldn't get the twenty
18 years. So everything that everyone told me had changed. I was
19 told by a lot more people that I would receive credit for doing
20 that, and I received nothing about it.

21 I'm ain't complaining about the eighteen months, I
22 just want stuff for what I done. If I got people to know
23 stuff, then my family shouldn't have gone out there and have
24 people arrested. For me just to be sitting there and joked on
25 and laughed about like it's funny or something, it's not funny.

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1 People I had to do that to went to jail. That's a waste of
2 their time and a waste of mine.

3 Q. Mr. Martin, do you recall when you changed your plea in
4 front of the magistrate judge in this case?

5 A. Do I recall what?

6 Q. When you changed your plea in front of the magistrate
7 judge.

8 A. I ain't never changed my plea. I signed the plea for the
9 twenty years.

10 Q. You stood before a magistrate judge and said you were
11 guilty of being felon in a possession. Do you recall that?

12 A. Yeah, I did that.

13 Q. Sir, just listen to my question. Do you recall at that
14 time wherein your counsel and I had an in-depth discussion with
15 you about your plea agreement because you were unsure if you
16 wanted to plead guilty. Do you recall that?

17 A. Yeah, because I --

18 Q. No, sir, that wasn't my question. My question --

19 THE COURT: Just answer his question. Do you recall
20 it?

21 A. Yes, sir, I recall it.

22 Q. Do you recall during that conversation where I explained to
23 you that you were still -- everything that you were doing you
24 were getting credit, was going to be counted for the fact that
25 no one, and you specifically, were not going to be held liable

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1 for the death of Johnny Jackson. Do you recall it?

2 A. No, sir. I tried to get you to do while I was in jail.

3 They told me that I was the one that did the shooting and
4 that's the only one they wanted.

5 Q. Do you not deny that in your plea agreement you understand
6 that you will not be held liable for the death of Johnny
7 Jackson? Do you understand that?

8 A. Yes, sir.

9 Q. And do you also understand that I filed the motion under
10 Rule thirty-five to reduce your sentence, do you understand
11 that?

12 A. Yes, sir.

13 Q. And you understand that the conversations with your own
14 counsel, and your counsel and I have had discussions on
15 numerous occasions about the appropriateness of an eighteen
16 month reduction?

17 A. No, I never talked with him about that until I received it.
18 I didn't know that until -- I had to write a letter. Ain't
19 nobody ever filed it. I had to write the letter to the Court
20 myself. My letter was considered as a motion and the
21 Government responded. I was never told I would get no eighteen
22 months.

23 MR. SPEIRS: That's all I have.

24 MR. KEITH: Nothing further, Your Honor.

25 THE COURT: You may step down. Thank you.

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3 THE COURT: What's Probation's position?

4 THE PROBATION OFFICER: Your Honor, the Government
5 made the motion for eighteen months. Probation noticed the
6 seriousness of the underlying offense. It would be
7 presumptuous for Probation said yes to Mr. Speirs' calculation.
8 And we would concur.

9 THE COURT: So you support the eighteen months, is
10 what you're telling me?

11 THE PROBATION OFFICER: Yes, sir.

12 THE COURT: Anything else?

13 MR. SPEIRS: Your Honor, just briefly. And I think
14 the Court may, through my cross examination, understand how the
15 Government has derived at eighteen months. Central to this
16 entire discussion, Judge, is the fact that Johnny Jackson,
17 whether he was a drug dealer or whatever he was, was murdered
18 or shot in his own house. And there can be discussions about
19 whether it was self-defense, but I think it's odd that young
20 men came to husband house armed and they want to talk about
21 self-defense. I think that's neither here nor there, Judge.

22 The fact of the matter is the man is dead, and the
23 State of Alabama, there was a no-bill. The Government decided
24 that --

25 THE COURT: The "Government" being the United States

1 or Alabama?

2 MR. SPEIRS: The United States pursuant to the plea
3 agreement decided not to hold Mr. Martin accountable for that
4 crime, which it could have, Judge, under Eighteen U.S.C. nine
5 twenty-four C and twenty-one eight forty-one, Judge. The
6 Government was free to seek charges against him for a drug deal
7 gone bad and chose not to. So I believe Mr. Martin fails to
8 understand the gravity of that benefit to him, Judge, and he
9 was earning that benefit with everything he did, and he earned
10 subsequent benefit through his testimony and his assistance to
11 the State of Alabama.

12 THE COURT: Thank you.

13 Anything else, Mr. Keith?

14 MR. KEITH: Judge, just that I think the death of
15 Johnny Jackson, as far as this Rule thirty-five hearing, is not
16 relevant.

17 THE COURT: Well it's relevant in the sense that I
18 should consider the entire circumstances that led first of all
19 to the initial plea, as well as to what would be a fair
20 reduction here for his cooperation. I think the Government's
21 point is that he's received a lot of benefits so far, and I
22 think the Government wants to place, whatever I give him, for
23 his cooperation in the appropriate context. I think it's a
24 matter of context.

25 MR. KEITH: It is, Your Honor. Of course we're

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1 wanting to focus you --

2 THE COURT: Obviously, I can only give him credit for
3 his cooperation. Nonetheless, one has to consider the
4 seriousness of the initial charge as well as the seriousness of
5 the circumstances that led to the charge.

6 But go ahead.

7 MR. KEITH: Yes, sir. Judge, the context we were
8 wanting to emphasize was his promises that he met this
9 performance in state court where he testified in state court.

10 Judge, we've never admitted or acknowledged or agreed
11 with the Government that he has any liability, any legal
12 liability in the death of Johnny Jackson. We think it's
13 clearly self-defense, and that's why they no-billed the case.

14 While we didn't want to turn down the Government's
15 promise, we never felt there was a factual basis for them to do
16 it if they were aware of what the actual facts were, the
17 forensics and all that during that incident.

18 Yes, sir, Judge, he should have been -- well, drug
19 dealers carry guns and they both were and maybe they shouldn't
20 have had a gun, and certainly Mr. Jackson shouldn't have pulled
21 his gun out and shot Mr. Quintrell Martin first, but that's
22 just what we want you to appreciate, it wasn't a capital
23 murder, it was an act of self-defense. And I think we have the
24 evidence to substantiate those statements based on the grand
25 jury. And that's why we want the Court to focus on his

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1 assistance to the state court in those murder cases.

2 THE COURT: Bring the defendant forward, Mr.
3 Quintrell Martin.

4 I will first announce the proposed sentence and then
5 I'll give you an opportunity to say something as to the whether
6 I should impose the sentence as announced.

7 The Court finds the Government's motion for downward
8 departure, document number fifty-seven, pursuant to Rule
9 thirty-five of the *Federal Rules of Criminal Procedure* should
10 be and is granted based on the defendant's substantial
11 assistance to the Government. The Court therefore finds that
12 the offense level should be thirty, which when combined with
13 the criminal history category of five creates a guideline range
14 of one hundred and twenty months and a fine range from fifteen
15 thousand to a hundred and fifty thousand dollars.

16 The sentence imposed in this case on June twelfth,
17 two thousand and seven is therefore reduced from a hundred and
18 twenty months imprisonment to a total term of a hundred and two
19 months imprisonment. All other conditions imposed on June
20 twelfth, two thousand seven shall be in effect.

21 The defendant's motion for downward departure,
22 document number fifty-six, is denied.

23 Now I ask you at this time, Mr. Martin, are there any
24 objections to the sentence imposed or to the manner in which
25 the Court pronounced it, other than those objections previously

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1 stated for the record? For example, do you have any objection
2 to the Court's ultimate findings of facts or conclusions of
3 law? Furthermore, you are instructed that if you have an
4 objection, you must not only state the objection, you must give
5 the grounds for the objection.

6 THE DEFENDANT: Yes, sir. I ain't complaining about
7 the eighteen months, I'm just talking about the other stuff
8 that I done that I didn't receive no credit.

9 THE COURT: I think eighteen months adequately
10 captures your cooperation, including everything that you did.
11 Not just the three trials, but your cooperation that led to the
12 convictions of people who pled guilty.

13 Do you have anything to say as to why the sentence as
14 announced should not be imposed, or do you have anything to say
15 in mitigation of the sentence?

16 THE DEFENDANT: No, sir.

17 THE COURT: It is the order, judgment and decree of
18 the Court that the sentence as announced is hereby imposed.

19 Now you have ten days to file any notice of appeal.
20 If you cannot afford the cost of an appeal the Court will allow
21 to you appeal at no cost, including furnishing you with a free
22 transcript and a free attorney.

23 You are in the custody of the marshal.

24 (Whereupon, the proceedings were concluded.)

25 * * * * *

x

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1
2 COURT REPORTER'S CERTIFICATE
3
4

5 I certify that the foregoing is a correct transcript
6 from the record of proceedings in the above-entitled
7 matter as prepared by me to the best of my ability.

8
9 I further certify that I am not related to any of
10 the parties hereto, nor their counsel, and I have no
11 interest in the outcome of said cause.

12
13 Dated this 15th day of May 2008.

14
15 \s\ Mitchell P. Reisner, CM, CRR
16 **MITCHELL P. REISNER, CM, CRR**
17 Official US Dist. Court Reporter
18 Registered Professional Reporter
19 Certified Real-Time Reporter
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